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Situation of human rights in Myanmar

Note by the Secretary-General

The Secretary-General has the honour to transmit to the members of the General Assembly, the interim report of the Special Rapporteur of the Commission on Human Rights on the situation of human rights in Myanmar, Paulo Sérgio Pinheiro, submitted in accordance with Commission resolution 2004/61 and Economic and Social Council decision 2004/266.

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Interim report of the Special Rapporteur of the Commission on Human Rights on the situation of human rights in Myanmar

Summary

The mandate of the Special Rapporteur of the Commission on Human Rights on the situation of human rights in Myanmar was established by the Commission in its resolution 1992/58 and extended most recently in resolution 2004/61. In that resolution, the Commission requested the Special Rapporteur to submit an interim report to the General Assembly at its fifty-ninth session. The present interim report is based upon information received by the Special Rapporteur up to 30 July 2004 and is to be read in conjunction with his last report to the Commission (E/CN.4/2004/33).

Since his last mission to Myanmar in November 2003 the Special Rapporteur has requested from the Government of Myanmar on several occasions its cooperation in returning to the country for a fact-finding mission. However, in spite of the indication of agreement in principle to the Special Rapporteur's visit, no authorization to visit was received. The Special Rapporteur therefore provides in the present report short updates on the issues he examined during his last visit, based on information collected from other sources. The Special Rapporteur will continue seeking access to Myanmar so as to more fully discharge his mandate.

The National Convention was reconvened from 17 May to 9 July 2004. Reviving the National Convention constitutes the first step under the seven-point road map for national reconciliation and democratic transition presented by the Prime Minister, General Khin Nyunt, on 30 August 2003. It was announced by the authorities that the delegates to the new National Convention were expected to frame their suggestions in the context of the six objectives and the 104 principles already laid down during the 1993-1996 Convention.

The National Convention was reconvened without the involvement of the National League for Democracy (NLD) and other political parties that won the majority of seats in the 1990 elections. It was attended by 1,076 delegates, compared with the 702 participants at the previous Convention. This increase was largely made up of representatives of ethnic nationalities, including ceasefire groups that emerged in the new political environment created as a result of ceasefire agreements with 17 former armed groups. In terms of potential for conflict resolution, the 2004 National Convention may thus be a unique opportunity for ethnic minorities.

The Special Rapporteur notes that the concerns regarding the National Convention process that he expressed in his last report to the Commission have not been addressed and that the necessary steps to ensure minimum democratic conditions for the reconvening of the National Convention have not been taken. The Special Rapporteur reiterates that if the Government wishes to promote a genuine process of political transition, fundamental human rights requirements have to be fulfilled.

The Special Rapporteur nevertheless hopes that the final outcome of the National Convention will bring some concrete solutions to the concerns of the entire population of Myanmar. Releasing Daw Aung San Suu Kyi and beginning a

substantive dialogue with her and her party, as well as reaching an agreement with ceasefire groups that takes into account their suggestions would contribute to the advancement of the political process. In this respect, the Special Rapporteur appeals to the Government of Myanmar to recognize the role of the Special Envoy of the Secretary-General and the necessity of his return to the country as soon as possible to continue his facilitation efforts, in particular in the context of preparations for the next session of the National Convention.

The information received by the Special Rapporteur during the reporting period indicates that the situation with regard to the exercise of basic human rights and fundamental freedoms in Myanmar has not substantially changed. The effects of the events of 30 May 2003 in Depayin have yet to be fully reversed. There remain large numbers of security detainees. The Special Rapporteur has received several reports of continuing arrests and harsh sentences for peaceful political activities; many of the reported cases were raised by the Special Rapporteur in his letters and urgent appeals addressed to the Government of Myanmar. The Special Rapporteur also remains concerned at the practice of administrative detention. There are still restrictions on political activity, with all NLD party offices remaining shut, except for its headquarters in Yangon which was allowed to reopen in April 2004. Despite the restrictions in place, according to recent reports, NLD has been able to conduct some activities.

While the extent to which NLD and other political parties will be allowed to conduct peaceful political activities without reprisals remains to be seen, the Special Rapporteur would like to reiterate the view, expressed during his last mission in November, that the implementation of the road map must be accompanied by tangible changes on the ground towards a genuinely free, transparent and inclusive process involving all political parties, ethnic nationalities and members of civil society. Political rights and freedoms must be respected in order to create an enabling environment conducive to a successful democratic transition. The implementation of human rights reforms proposed in his reports and letters to the Myanmar authorities would help create such an environment.

During the reporting period, the Special Rapporteur has received credible and detailed reports of human rights violations in certain counter-insurgency areas in Myanmar and hopes that he will be able to clarify those reports during his next mission. He recalls that his request for an independent assessment in Shan State has not yet been answered by the Myanmar authorities.

The Special Rapporteur has taken note of the cooperation by the Government of Myanmar with the Committee on the Rights of the Child in the consideration of the second periodic report of Myanmar on the implementation of the Convention on the Rights of the Child.

The Special Rapporteur believes that there has been growing appreciation in recent years by the international community of an imperative for humanitarian assistance in Myanmar. In this regard, he welcomes the efforts of the United Nations Country Team in mapping out vulnerabilities in Myanmar with a view to developing a strategic framework for United Nations assistance.

In view of the prevailing situation in Myanmar, the conclusions and recommendations given in the previous reports of the Special Rapporteur remain valid.

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I. Introduction

1. The mandate of the Special Rapporteur of the Commission on Human Rights on the situation of human rights in Myanmar was established by the Commission in its resolution 1992/58 and extended most recently in resolution 2004/61 (approved by the Economic and Social Council in its decision 2004/266). In its resolution, the Commission requested the Special Rapporteur to submit an interim report to the General Assembly at its fifty-ninth session. The present report is submitted in accordance with that request. It is based upon information received by the Special Rapporteur up to 30 July 2004 and is to be read in conjunction with his last report to the Commission on Human Rights (E/CN.4/2004/33).

II. Activities of the Special Rapporteur

2. The Special Rapporteur introduced his report to the Commission on Human Rights on 26 March 2004. While in Geneva on that and other occasions, and also later in London, he had meetings with senior representatives of the Government of Myanmar to discuss matters relating to the implementation of his mandate. In parallel, the Special Rapporteur maintained his consultations with representatives of Member States, civil society and the academic community.

3. Since his last mission to Myanmar in November 2003, the Special Rapporteur has written on several occasions to the Government of Myanmar seeking its cooperation in returning to the country for a fact-finding mission. The Special Rapporteur proposed to travel to Myanmar in March 2004 in order to update his report to the Commission. However, in spite of the indication of agreement in principle to the Special Rapporteur's visit, the Government did not accept the proposed dates and suggested seeking other, mutually convenient dates. The Special Rapporteur suggested late May/early June 2004, so as to collect first-hand information for the present report, in particular in view of the recent developments relating to the National Convention process in the country. No authorization was received for those dates either. The Special Rapporteur wishes to note that the Special Envoy of the Secretary-General has also not had access to Myanmar since his last mission in March 2004 and that the Secretary-General has called on the State Peace and Development Council (SPDC) to allow his Special Envoy to return as soon as possible.

4. In the absence of missions to Myanmar during the reporting period, the Special Rapporteur provides in the present interim report short updates on the issues he examined during his last visit, based on information collected from other sources. The Special Rapporteur will continue to seek access to Myanmar so as to more fully discharge his mandate.

5. Taking the opportunity of a visit to Bangkok for another mandate, the Special Rapporteur held a press conference on 1 June 2004 at which he expressed his disappointment at the lack of cooperation on the part of the Government of Myanmar. While in Bangkok, the Special Rapporteur met with representatives of the Royal Thai Government, the diplomatic community, United Nations agencies and civil society as well as individuals knowledgeable about the situation of human rights in Myanmar.

6. During the reporting period, the Special Rapporteur has sent to the Government of Myanmar six urgent appeals and letters of allegation raising cases of alleged violations of human rights involving 68 persons.

III. Human rights-related developments

A. The National Convention

7. Reviving the National Convention constitutes the first step under the seven-point road map for national reconciliation and democratic transition presented by the Prime Minister, General Khin Nyunt, on 30 August 2003. It should be recalled that the previous Convention, which began its work in 1993, was adjourned in 1996 after delegates from the National League for Democracy (NLD) walked out because of what NLD described as undemocratic procedures. There were also human rights abuses committed during its proceedings, which were documented by previous special rapporteurs (E/CN.4/2004/33, para. 33).

8. Preparations for the reconvening of the National Convention were handled by three bodies — the National Convention Convening Commission, the Work Committee and the Management Committee — specifically reconstituted for that purpose by SPDC (ibid., paras. 29-30). They had their first joint work coordination meeting on 16 February 2004.

9. At their second meeting, on 19 April 2004, Lieutenant-General Thein Sein, Chairman of the National Convention Convening Commission and Secretary-2 of SPDC, announced the date of the National Convention and the parameters of its operation. It was made clear that the new Convention would be held in accordance with its previous objectives and procedures. The delegates were expected to frame their suggestions in the context of the "basic principles" and the 104 "detailed basic principles" already laid down during the 1993-1996 Convention. It was also declared that the list of delegates had been scrutinized and that invitations had been sent out beginning on 7 April 2004 to the delegates selected from the same eight social categories as at the previous Convention: political parties, representatives-elect, national races, peasants, workers, intellectuals and intelligentsia, State service personnel and other invited delegates. Delegates were to register on 13 and 14 May 2004.

10. This announcement came three days after NLD released a statement that the situation would not be conducive to its participation in the National Convention if the latter continued to operate under the previous procedure and rules. The NLD position was that the National Convention must be held in accordance with democratic practices. Seven NLD Central Executive Committee (CEC) members who had already been invited to attend the Convention (the other two, Daw Aung San Suu Kyi and U Tin Oo, remained under house arrest and reportedly were not sent an invitation) stated that their participation would be officially decided only after they had discussed the matter with Daw Aung San Suu Kyi.

11. A meeting of the NLD CEC took place on 27 April 2004 at Daw Aung San Suu Kyi's residence. All nine members of CEC were present, including U Tin Oo who was brought from house arrest to attend the meeting. From the reports that the Special Rapporteur saw, it appears that NLD was prepared and willing to attend the

National Convention until it became clear that an agreement on the release of Daw Aung San Suu Kyi and the reopening of party offices would not be reached. The refusal of the NLD leadership to participate in the Convention was echoed by some other ethnic nationality parties. Some ethnic groups also objected to the six "basic principles", which include a guarantee that the military will have a significant role in any future government, and to the 104 "detailed basic principles" for the constitution that were laid down by the previous Convention and would guide the work of the new Convention.

12. On 14 May 2004, the Secretary-General urged all parties concerned to make every effort in the next two days to reach an agreement, taking into account suggestions made by NLD and by other political and ethnic nationality parties. He also reiterated his call for the lifting of all remaining restrictions imposed on Daw Aung San Suu Kyi and U Tin Oo and the reopening of NLD offices, so that the National Convention could be all-inclusive. Those conditions were essential for the National Convention to be recognized by the international community as a credible forum for democratization and national reconciliation in Myanmar.

13. The National Convention was reconvened from 17 May to 9 July 2004 without NLD and other political parties that won a majority of seats in the 1990 elections. The Special Rapporteur, in his press statement of 1 June, noted that the concerns regarding the National Convention process, which he expressed in his last report to the Commission (ibid., para. 34) and subsequently reiterated in his speech to the Commission had not been addressed and that the necessary steps had not been taken to ensure that the National Convention would be reconvened under democratic conditions. He reiterated that fundamental human rights requirements had to be fulfilled if SPDC wished to promote a genuine process of political transition. In order to create an enabling environment conducive to a successful democratic transition, the rights to freedom of expression and assembly must be restored. All political prisoners (i.e. security detainees) must be released immediately and unconditionally, and no further arrests or punishment for peaceful political activities should take place. Moreover, Daw Aung San Suu Kyi and U Tin Oo must be freed from de facto house arrest and all NLD party offices should be reopened.

14. The reconvened National Convention was attended by 1,076 of the 1,088 invited delegates, i.e. more than 300 delegates more than the previous Convention, which had 702 participants. The increase was largely made up of representatives of ethnic nationalities, including ceasefire groups that had emerged in the new political environment created as a result of ceasefire agreements between the Government and 17 former armed groups. In terms of potential for conflict resolution, the 2004 National Convention may thus be a unique opportunity for ethnic minorities. This being said, the challenges should not be underestimated. The ceasefire groups, comprised of ethnic minority-based former armed opposition groups, were included in the "specially invited guests" category. Before it was convened, SPDC had requested the ceasefire groups to select a specified number of delegates. During the initial session of the Convention, the ceasefire groups raised issues of local autonomy for the ethnic minority areas, and some substantive discussions with the authorities reportedly took place about these concerns. With regard to the United Nationalities Alliance (UNA), a grouping of some of the ethnic minority political parties, only the Shan Nationalities League for Democracy (SNLD) was reportedly invited to participate in the National Convention, but until now they have not done so.

15. The Special Rapporteur took note of the concerns regarding the proceedings and the general atmosphere at the National Convention, which he expressed in his earlier report (ibid., para. 33), including in relation to Law No. 5/96 and other restrictive laws and procedures. The Special Rapporteur will address these during his next fact-finding mission to Myanmar.

16. While noting certain concerns about the current National Convention process, in particular with respect to inclusiveness and procedures governing its proceedings, the Special Rapporteur hopes that its final outcome will bring some concrete solutions benefiting the entire population of Myanmar. The Special Rapporteur believes that releasing Daw Aung San Suu Kyi and beginning a substantive dialogue with her and her party, as well as reaching an agreement with ceasefire groups that takes into account their suggestions, would contribute to the advancement of the political process. In this respect, the Special Rapporteur appeals to the Government of Myanmar to recognize the role of the Special Envoy of the Secretary-General and the need for his return to the country as soon as possible to continue his facilitation efforts, in particular, in the context of preparations for the next session of the National Convention which is expected to be convened sometime after the monsoon season, perhaps in November.

B. Update on civil and political rights

17. The information received by the Special Rapporteur during the reporting period suggests that the situation with regard to the exercise of basic human rights and fundamental freedoms in Myanmar has not substantially changed. The effects on human rights of the events of 30 May 2003 in Depayin have yet to be fully reversed (see A/58/219, paras. 10-17, 23-25; E/CN.4/2004/33, paras. 12-21).

18. There remain large numbers (over 1,300) of security detainees. The Special Rapporteur is concerned that so far there have been no indications of when Daw Aung San Suu Kyi will be released. The Special Rapporteur also regrets to note that despite his repeated appeals only a small number of detainees have been released during the reporting period. Among recent releases are NLD Chairman U Aung Shwe and CEC member U Lwin, who had been under house arrest since 30 May 2003 and were released on 13 April; NLD member Tin Tun, who was sentenced to 20 years in prison in 1993 and released on 20 June; NLD member Ko Wanay Soe, who had been serving a 10-year prison sentence since 1999, and lawyer Tin Aye, who were freed on 24 June.

19. Since the beginning of this year, the Special Rapporteur has received several reports about continuing arrests and harsh sentences for peaceful political activities; many of the reported cases were raised by the Special Rapporteur in his letters and urgent appeals addressed to the Government of Myanmar. According to one report, 11 NLD members who had been arrested in connection with the 30 May 2003 incident in Depayin were sentenced on 9 April 2004 to prison terms ranging from 7 years to 22 years by a "special tribunal" set up inside a prison in Mandalay Division. They were accused of maintaining a relationship with illegal organizations and charged under article 5 (j) of the Emergency Provision Act and article 17 (1) of the Unlawful Organization Act, in a brief trial at which they were deprived of their right to legal counsel. These 11 persons, who are from Yangon, and their respective jail terms are: (1) U Hla Saw, 17 years; (2) U Myint Oo, 7 years; (3) Daw Nhin Pa

Pa, 17 years; (4) Maung Aung Naing Thu, 12 years; (5) Ko Aung Aung, 7 years; (6) U Win Kyi, 22 years; (7) Ko Thay Lwin Oo, 7 years (they are all from Mandalay); and (8) U Than Win, 12 years; (9) Ko Ray Tun Min, 12 years; (10) U Tin Oo, 12 years; and (11) Ko Zaw Min Naing, 12 years. The Special Rapporteur notes that the International Committee of the Red Cross (ICRC) was able to continue carrying out its traditional protection activities in favour of detainees under the custody of the Prison Department, including repeated visits to persons still being detained in connection with the 30 May events. For his part, the Special Rapporteur will pursue further discussions on the Depayin incident (E/CN.4/2004/33, paras. 12-21) during his next mission to Myanmar.

20. It was also reported that on 7 May, five activists who had been arrested three months earlier were sentenced by a "special court" in Insein prison to lengthy prison terms for allegedly communicating illegally with banned political organizations. They are: Maung Maung Latt and Paw Lwin (12 years); Ne Min (15 years); Ye Thiha (7 years); and Ne Lin Aung, also known as Yan Naing (22 years). It was further reported that on 5 June, two NLD members — Than Than Tay, secretary of the women's group of Magwe Division, and Tin Myint, secretary of Thingangyun township in Yangon — were arrested for allegedly communicating with illegal groups on the border. Their whereabouts appear to be unknown and they potentially face long-term imprisonment. The Government claimed that this was not indicative of a new clampdown on NLD.

21. The Special Rapporteur continues to be concerned about the practice of administrative detention under article 10 (A) of the Law to Safeguard the Nation Against the Danger of Subversive Elements. The Special Rapporteur is also disturbed at reports of the deaths of two former political prisoners. One of them, a 60-year-old poet Kyi Tin Oo, who was released from prison on 24 March 2004, died of a heart attack on 24 June. It is alleged that he had suffered from high blood pressure, a heart condition and other ailments as a result of torture he was subjected to at the time of his arrest and interrogation and the poor conditions in prison where he spent his last 10 years. The other is lawyer U Min Thu, a 50-year-old political prisoner who died on 12 June 2004 at Insein Township Hospital as a result of heart disease. He had been serving a seven-year sentence received in April 1998 for cooperating in compiling facts for the History of Students' Activities in Politics of Burma records.

22. The Special Rapporteur has received information that at least 50 political prisoners are currently in poor health. He appeals once again to the Government of Myanmar to release those prisoners on humanitarian grounds. He also renews his call for the immediate and unconditional release of all political prisoners through an amnesty process. Their continued detention contradicts the spirit and objectives of the democratic transition and national reconciliation announced in the road map by the Prime Minister.

23. There are still restrictions on political activity, with all NLD party offices remaining shut except for its headquarters in Yangon which was allowed to reopen in April 2004. Reportedly, phone lines to the NLD headquarters were cut when the National Convention started its proceedings on 17 May.

24. Despite the restrictions in place, according to recent reports, NLD has been able to conduct some activities. The party leaders and elected representatives started holding meetings during the month of July in preparation for their input to the NLD

leadership concerning the party's activities and future plans. At the time of writing, those preparatory meetings had been concluded in Yangon Division and Shan State. Similar meetings are planned throughout the country in the coming days. Following these meetings, party leaders from all divisions and states are expected to meet with their top leaders at the NLD headquarters in Yangon.

25. Reportedly, on 30 July NLD started a nationwide petition calling for the release of Daw Aung San Suu Kyi, U Tin Oo and other political prisoners and for the reopening of all party offices closed since 30 May 2003. Military Intelligence officials have allegedly warned the organizers against carrying on with the campaign, but as yet no action has been taken against them. In view of the peaceful nature of this campaign, the authorities should desist from putting pressure on the organizers.

26. While the extent to which NLD and other political parties will be allowed to conduct peaceful political activities without reprisals remains to be seen, the Special Rapporteur would like to reiterate his view, stated during his last mission in November, that the implementation of the road map must be accompanied by tangible changes on the ground towards a genuinely free, transparent and inclusive process involving all political parties, ethnic nationalities and members of civil society. Political rights and freedoms must be respected in order to create an enabling environment conducive to a successful democratic transition. The implementation of human rights reforms proposed in his reports and letters to the Myanmar authorities would help create such an environment.

C. Situation in the border areas

27. The resumption of peace talks between the Government of Myanmar and the Karen National Union (KNU), the largest armed opposition group, is a significant development. KNU deputy chairman and defence chief General Bo Mya led a delegation to Yangon for talks in January 2004, when a "gentleman's agreement" on a ceasefire was agreed. The Special Rapporteur hopes that the remaining issues will be resolved by the two sides very soon. Reportedly, the two sides will meet again in August 2004 for the fourth round of negotiations aimed at ending more than a half century of armed conflict. Were human rights commitments to be built into an agreement, this process could significantly improve not only the human rights situation in ethnic minority areas, but also the political climate throughout Myanmar.

28. The Special Rapporteur has received credible and detailed reports of human rights violations in certain counter-insurgency areas in Myanmar and hopes that he will be able to clarify those reports during his next mission. He recalls that his request for an independent assessment in Shan State (E/CN.4/2003/41, paras. 35-41; A/58/219, paras. 27-36; and E/CN.4/2004/33, paras. 47-50) has not yet been answered by the Myanmar authorities.

29. The Special Rapporteur notes with satisfaction that SPDC has continued to allow ICRC to maintain its independent assessment of the security and living conditions of the population in the conflict-affected ethnic minority areas.

D. Child rights

30. The Committee on the Rights of the Child considered the second periodic report of Myanmar on the implementation of the Convention on the Rights of the Child (CRC/C/70/Add.21) on 26 May 2004 and adopted its concluding observations (CRC/C/15/Add.237) on 4 June 2004. In preparation for that event, on 5 February 2004, the Special Rapporteur briefed the Committee members on the present situation in Myanmar during its pre-sessional working group meeting.

31. The Special Rapporteur notes that the Committee welcomed the adoption of rules and regulations relating to the Child Law in 2001; the creation of the National Human Rights Committee in 2000; the establishment of the Myanmar Women's Affairs Federation in 2003, whose mandate includes promotion and protection of the rights of children; the adoption of the National AIDS Programme and the development of the "Joint Programme for HIV/AIDS: Myanmar 2003-2005"; the adoption of the National Health Plan 1996-2001, which achieved high immunization coverage for a significant part of the population; and the adoption of the "Education for All" National Action Plan.

32. The Committee made comprehensive recommendations addressing areas of concern, which the Special Rapporteur fully endorses. Among some of the key recommendations are: raising to an internationally acceptable age the minimum age for criminal responsibility as well as the marriage age of girls; prohibiting corporal punishment and undertaking education campaigns to educate families and professionals on alternative forms of discipline; assessing the scope, nature and causes of violence against children, in particular sexual violence against girls, with a view to adopting a comprehensive strategy of effective measures and policies and to changing general attitudes; increasing efforts to prevent the spread of HIV/AIDS; improving the quality of the education system; introducing human rights, including children's rights, into the school curricula, starting at the primary level; making primary education free in practice by minimizing costs borne by parents; extending compulsory education beyond fourth grade to at least sixth grade; strengthening efforts to progressively ensure that girls as well as boys, from urban, rural and remote areas, and those children belonging to minority groups all have equal access to educational opportunities; adopting and implementing a comprehensive national plan of action to prevent and combat child labour; continuing to seek assistance from the International Labour Organization (ILO) for the elimination of forced labour; extending the protection from sexual exploitation and trafficking in all relevant legislation to all boys and girls below the age of 18 years; formulating a national plan of action to combat trafficking; demobilizing and reintegrating all combatants under the age of 18 years, ensuring that all military recruits are at least 18 and have enlisted voluntarily, and providing educational and other assistance to children affected by the conflict.

33. The Special Rapporteur is pleased to note that the Government of Myanmar has invited a delegation of the Committee on the Rights of the Child to visit Myanmar. The Government has announced that a national plan of action on child rights will soon be drafted in response to the recommendations made by the Committee. The Special Rapporteur has also received information that the Curriculum Division of the Department of Educational Planning and Training started in June 2004 to elaborate lessons on human rights for the basic education, middle school and high school levels. The Special Rapporteur welcomes the

contribution of the United Nations Children's Fund (UNICEF) in this regard. Furthermore, the Special Rapporteur is encouraged to note that in July 2004, UNICEF and the Supreme Court — with the collaboration of the Juvenile Justice Inter-Agency Working Group — brought together senior policy makers in the Government (including, in addition to the Supreme Court, the Attorney-General's Office, the Ministry of Home Affairs and the Ministry of Social Welfare, the Myanmar Police Force and the Prison Department) and experts from the region for a workshop on juvenile justice to exchange information on how to improve the protection of children in conflict with the law in Myanmar.

34. The Special Rapporteur has taken note of the establishment of the Committee for the Prevention of the Recruitment of Child Soldiers on 5 January 2004. The Committee includes the Ministers for Foreign Affairs, Labour, and Social Welfare and the Home Minister, the Judge Advocate-General and two high-ranking military officials from the Ministry of Defence. A task force was established at the first meeting on 16 January 2004. The Committee recently held a second senior-level meeting under the chairmanship of Secretary-2 of SPDC. While the first meeting of the Committee was to adopt resolutions on prevention of the recruitment of minors for military service, the second was to discuss the implementation of the resolutions and the future programmes. These initiatives are welcome.

35. The Special Rapporteur has also taken note of the concerns expressed in the report of the Secretary-General on children and armed conflict to the Security Council (A/58/546-S/2003/1053 and A/58/546/Corr.1 and 2-S/2003/1053/Corr.1 and 2) and the references therein to Myanmar.

IV. Cooperation with the United Nations Country Team

36. The Special Rapporteur believes that there has been growing appreciation in recent years on the part of the international community of an imperative for humanitarian assistance in Myanmar. In this regard, the Special Rapporteur welcomes the efforts of the United Nations Country Team, which is currently comprised of 10 United Nations organizations present in the country, towards mapping out vulnerabilities in Myanmar with a view to developing a strategic framework for assistance by United Nations agencies. This is an important initiative as the United Nations, by virtue of its mandate, is in a unique position to address the needs of vulnerable populations in the country. Moreover, at present the United Nations continues to be the largest multilateral source of humanitarian assistance and social support in Myanmar.

37. The bulk of the ongoing assistance is used for supporting grass-roots community-based activities. Significant additional assistance totalling US$ 98.5 million from the Global Fund to Fight AIDS, Tuberculosis and Malaria is expected to be directed towards a major expansion of health-care resources in Myanmar in the next five years. The United Nations Development Programme, as the principal recipient of the Global Fund, is responsible for financial management as well as monitoring and evaluation systems. The Special Rapporteur is pleased to note that the first US$ 35.6 million in approved grants from the Global Fund are expected to begin flowing into Myanmar in September 2004. Furthermore, the Special Rapporteur welcomes the willingness of the Government of Myanmar to provide full-country access for all sub-recipients of Global Fund money to ensure

that the most needy receive assistance. More than half of this amount (US$ 19.2 million) will support the campaign against AIDS. This aid is much needed and timely, particularly since it was revealed recently at the XV International AIDS Conference (Bangkok, 11-16 July 2004) that the number of people in Myanmar infected with HIV is estimated to have reached 620,000, thus placing Myanmar among the top three worst affected countries in the region.

38. The Special Rapporteur welcomes the agreement between the Government of Myanmar and the Office of the United Nations High Commissioner for Refugees (UNHCR), made earlier this year, to allow UNHCR access to the eastern part of the country, namely, Kayin and Mon States and Tanintharyi Division. Authorities at both the central and local levels have been cooperating with UNHCR which has been able to field six missions to these border areas so far. These missions are providing an important opportunity to assess humanitarian concerns in host communities and identify needs prior to any return of refugees and displaced populations. A UNHCR presence in these areas and its efforts to create conditions conducive to the return of refugees will also contribute to the national reconciliation process. However, it is obvious that a sustainable repatriation process is also linked to the establishment of a solid peace agreement between KNU and SPDC covering substantive issues, including mine clearance and the resettlement of ethnic Kayin displaced by fighting.

39. The Special Rapporteur would also like to note the positive cooperation between the Myanmar Human Rights Committee and UNHCR on human rights law training for officials in border areas. The training programme is ongoing, with five intensive workshops held so far in Yangon, Kayin and Mon States and Tanintharyi Division, at which 150 officials were trained. More such training is planned. Parallel to this, UNHCR is training the trainers (law professors from various Myanmar universities) at several institutions around the world.

40. UNICEF is also involved in substantial capacity-building and training in several areas, including, protection of children deprived of parental care (especially orphans and children in institutions), protection of children in conflict with the law, and protection and reintegration of exploited and neglected children. Moreover, UNICEF has been providing assistance to Kayin, Kayah, Mon and other States on the border with Thailand in primary health care, basic education, and water and sanitation for a number of years in agreement with the Government; more recently, assistance in child protection has also been initiated in several of these areas. UNICEF is in regular contact with relevant officials dealing with various protection issues, including child soldiers.

41. With regard to ILO, the implementation of the Plan of Action agreed by ILO and the Government of Myanmar could not yet be initiated in view of the prevailing climate in the country and, in particular, because of the cases involving nine persons sentenced to death for high treason (i.e. after the late discovery in March 2004 that three of the nine cases could have an ILO dimension). These cases were raised by the Special Rapporteur in his earlier report (E/CN.4/2004/33, para. 24) and they have not yet been fully resolved. Those nine persons were sentenced to death for allegedly conspiring to bomb government buildings, assassinate SPDC members, having contact with political groups in exile and disseminating "false information" about the authorities overseas, allegedly including through contacts with ILO. The Special Rapporteur is concerned that although on the first appeal the Supreme Court

commuted the death sentences (to life imprisonment for some, three years' imprisonment for others), it failed to clarify this crucial point, despite the earlier assurances of the Government that contacts with ILO could not be considered illegal in Myanmar. The Special Rapporteur has been informed that a second appeal, to the full bench of the Supreme Court, was made by a lawyer for eight of the nine persons on 4 August 2004.

42. On a related matter, the Special Rapporteur took note of the conclusions of the special sitting of the Committee on the Application of Standards of the International Labour Conference (5 June 2004), which examined developments concerning the question of the observance by the Government of Myanmar of the Forced Labour Convention, 1930 (No. 29). According to the Committee, in spite of the Government's assurances of its good intentions, the measures taken have not been sufficient to enable agreement on the implementation of the joint Plan of Action.

V. Concluding observations and recommendations

43. The conclusions and recommendations of the Special Rapporteur contained in the present report join those in his previous reports, which remain valid in view of the prevailing situation in Myanmar (see, for example, E/CN.4/2002/45, E/CN.4/2003/41 and E/CN.4/2004/33).